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Towards Transparency in Land Ownership Transparency in Sierra Leone

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TOWARDS LAND OWNERSHIP TRANSPARENCY IN SIERRA LEONE

**A desk review of laws, policies
and secondary sources**

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**TRANSPARENCY INTERNATIONAL
SIERRA LEONE**

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KEY TERMS

BENEFICIAL OWNER/PERSON OF SIGNIFICANT CONTROL

The natural person who ultimately owns, controls or benefits from a legal entity or arrangement and the income it generates. The term is used to underscore the contrast with the legal or nominee company owners and with trustees, all of whom might be registered as the legal owners of an asset without actually possessing the right to enjoy its benefits.

CONTROLLING

An entity “controls” land if they are able to exercise authority through use, management, and/or exclusion rights over land, but they do not have all the rights required under the “ownership” designation: the right to exclude, to due process and compensation, to sell or transfer to another entity, and to retain rights for an unlimited duration.

LEGAL ARRANGEMENTS

Used to describe the arrangement/structure/relations of entities/persons under the law. For example, an express trust or other similar arrangement (fiducie, treuhand, fideicomiso) can be described as a “legal arrangement”.

LEGAL ENTITY

Any entity other than a natural person that has a legal capacity to enter into agreements or contracts, assume obligations and own property, among other things. This can include companies, bodies corporate, foundations, partnerships, or associations and other similar entities.

LAND TENURE

includes all types of legal relations to land that can be described as land ownership and land use rights.

LAND USE RIGHTS

Holding a land use right is distinct and separate from land ownership. A land use right is a property right enjoyed by private parties or communities. It is enforceable. However, compared with ownership, user rights are considered more limited and subordinate.

NATURAL PERSON

An individual human being, as opposed to a legal person, which may be a private (for example, a legal entity or non-governmental organisation) or public (for example, government) organisation.

OWNERSHIP

An entity “owns” land if their tenure is unlimited in duration, they have a legal right to exclude outsiders from using their resources (within limits), and they are entitled to due process and compensation in the face of potential extinguishment by the state of some or all of their rights.



INTRODUCTION

This report analyses the land registration system and applicable legal framework in Sierra Leone to determine whether these ensure adequate transparency and accountability, particularly in the context of beneficial ownership. The research for this report was conducted as part of the process of testing a new research framework to assess beneficial land ownership, as discussed in *Towards Transparency in Land Ownership: A Framework for Research on Beneficial Land Ownership* (Transparency International: 2018). Based on the findings from the analysis, the report includes a set of evidence-based recommendations for reforming land laws and relevant land governance practices to ensure public disclosure of beneficial ownership interests in land and resources, as well as dissemination of crucial information needed to hold investors and other actors accountable for decisions that impact the environment, human rights and food security.

This report is divided into the following chapters:

- Chapter II discusses the background and context related to Sierra Leone's land tenure system and related issues.
- Chapter III focuses on "Applying the Research Framework" and is organised into five sub-sections:
 - Section A examines the structures of Sierra Leone's land registry and information collection systems.
 - Section B looks at whether information on land ownership and control is available and accessible.
 - Section C discusses the laws that contain beneficial ownership provisions.
 - Section D provides an analysis of whether information on legal entities operating in Sierra Leone is publicly accessible.
 - Section E identifies binding and non-binding responsibilities imposed on landowners to protect the environment, food security and human rights.
- Chapter IV draws conclusions and proposes recommendations for implementing a robust land registration system that ensures transparency and accountability around land ownership and control.

BACKGROUND AND CONTEXT: SIERRA LEONE

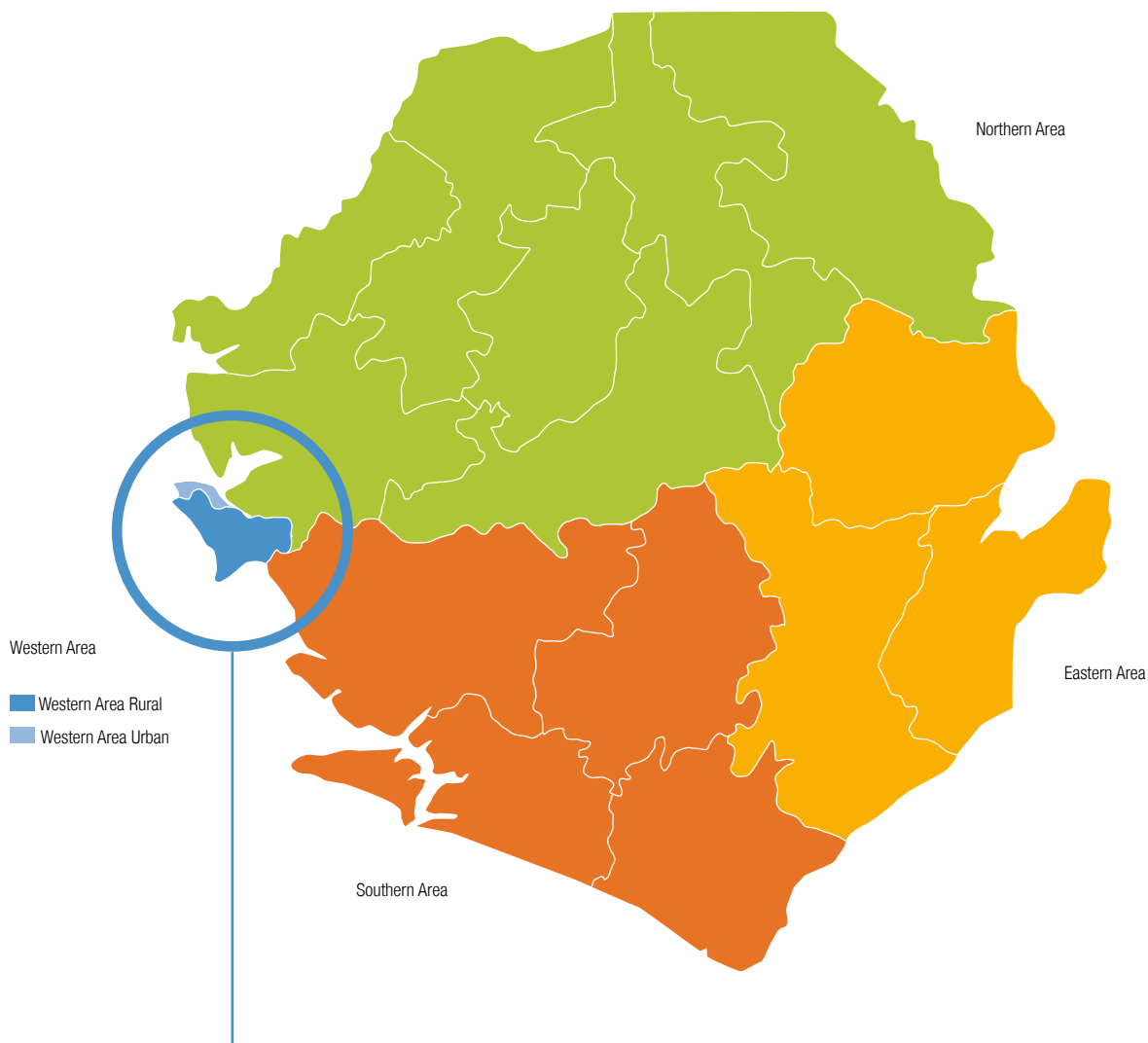


FIGURE 1

Western Area of Sierra Leone

Freehold land in the Western Area can be bought and sold by citizens, and there are no established restrictions on the sale of land or land leases. Since the Western Area is predominantly urban, land is in high demand and is usually bought for housing and infrastructure development. The government has often encouraged foreign investors to lease land in the Western Area, but foreigners are not permitted to purchase, acquire or otherwise obtain freehold rights. By law, the government can lease state land to foreign investors for commercial and industrial use.

Still recovering from the Civil War (1991–2002), the 2014 Ebola epidemic, and other national calamities, Sierra Leone continues to suffer from high levels of poverty, unemployment, corruption, hunger, disease and other challenges to development. While the country has shown signs of growth and resilience since the Civil War,¹ Sierra Leone was ranked 179 out of the 188 countries in the Human Development Index Rankings in 2016.² GDP per capita was US\$505 in 2016, indicating it remains among the world's poorest countries.³ The UN Food and Agriculture Organization (FAO) listed Sierra Leone as a low-income, food-deficient country in 2016.⁴ On the 2017 Global Hunger Index, Sierra Leone was ranked 117 out of 119 countries and was labelled as having an “alarming” level of hunger.⁵

Adequate access to land and natural resources, including forests, rivers, pastures, and other customarily used and managed commons, is a key factor underpinning socioeconomic growth, food security, peace and prosperity for the people of Sierra Leone. However, in most parts of the country, information on how much (and which parcels of) land and natural resources have been allocated to investors and other legal entities remains fragmented and inaccessible. Meanwhile, large-scale land investments are on the rise: since its emergence from a long and destructive Civil War, the government has sought foreign investment as part of a wider post-conflict agenda.⁶ Without strong laws in place that require transparency and accountability with respect to land ownership and control, the people of Sierra Leone have few avenues for redress in the event that land investors and other beneficial owners violate their human rights, natural environments and food security.

This report provides information on Sierra Leone's land tenure system, land registries, company registries and

beneficial ownership requirements, and also discusses whether there are legal and voluntary frameworks in place to ensure those who benefit from land (for example, land investors) are responsible for protecting human rights, the environment and food security. The main focus of the report is on whether Sierra Leone has established a legal framework for publicly disclosing the identity of private individuals, companies, legal entities and others that retain significant economic benefits from land, as “beneficial owners.”

Land tenure classifications

Before presenting the research findings, it is worthwhile to provide some background and context regarding Sierra Leone's land governance system. In Sierra Leone, there are three main categories into which tenure can be classified: state land, private land (i.e. freehold tenure) and communal land governed by customary law.⁷ In the Western Area of Sierra Leone, otherwise referred to as the coastal strip, the law recognises freehold tenure, which is governed by common law and statutory law that has existed since 1880.⁸ The Northern, Eastern, and Southern Provinces (hereinafter the “Provinces”) are primarily rural areas with 149 chiefdoms and tenure arrangements that are governed by customary laws.⁹ These customary laws are based on origins, traditions and norms that are deeply rooted in the communities, often go back centuries, and vary depending on the community and ethnic group.¹⁰ Landowning families can trace their lineage to the “original” inhabitants of the village.¹¹

While customary law is recognised as part of Sierra Leone's general law, its application is restricted to the Provinces. Paramount Chiefs have authority to act as

¹ The World Bank recently reported that Sierra Leone's economy proved resilient in the face of the Ebola epidemic and collapse of iron ore. Real GDP was projected to recover from -20.6 per cent in 2015 to 5.4 per cent in 2017. See World Bank. Macroeconomic Context of Sierra Leone. Available at: www.worldbank.org/en/country/sierraleone/overview#1

² UN Development Programme, Human Development Report (UN Development Programme, 2016).

³ World Bank, GDP Per Capita Data (World Bank, 2016).

⁴ FAO, Low-Income Food-Deficient Countries (LIFDC) – List for 2016 (FAO, 2016).

⁵ International Food Policy Research Institute, Global Hunger Index by Severity (International Food Policy Research Institute, 2017).

⁶ C. Ryan, “Large-scale land deals in Sierra Leone at the intersection of gender and lineage,” *Third World Quarterly*, 39:1, 2018: 189-206.

⁷ United States Agency for International Development, Country Profile: Property Rights and Resource Governance in Sierra Leone (United States Agency for International Development, 2010).

⁸ USAID, 2010.

custodians of communal land areas and hold land in trust for the families, households and villages living in the Provinces.¹² Following customary laws, most decisions about family ownership and annual use are made at the community level by heads of landowning families; in cases of land disputes, the Paramount Chiefs have authority to settle such disputes.¹³ Non-natives are not allowed to occupy land in the Protectorate unless they have first obtained the consent of the Tribal Authority to his occupation of such land.¹⁴ The Chieftaincy Act of 2009 solidifies the chief's power over rural areas and establishes rules pertaining to the election, authority, functions, and removal of chiefs.¹⁵ While the Paramount Chiefs are not the legal owners of the land in the Provinces, they are seen as the “custodians” of all of the lands in their chiefdom.¹⁶

Land transfer, allocation and lease

In Sierra Leone, all land, including customary land, can be acquired through expropriation under Section 21 of the 1991 Constitution (the Constitution is currently under review and a new version may be approved in 2018). Land can also be obtained through purchase, lease, allocation, inheritance, gift, clearing or adverse possession.¹⁷ The process of acquiring, leasing, transferring or otherwise allocating land in Sierra Leone differs depending on the tenure type.

The Provinces

With respect to communal land and natural resources in the Provinces, landowning families and Paramount Chiefs make decisions to determine ownership and use rights. Land in the provinces cannot be bought and sold, but it can be leased.¹⁸ In some areas, chiefs and communities

have leased lands to outsiders including migrants, tenants, ex-combatants and foreigners (collectively known as “strangers”).¹⁹

There are several restrictions imposed on the rights of foreigners to hold, lease and use land in Sierra Leone. For example, Sections 2 and 3 of the Provinces Land Act CAP 122 of 1960 state that the Chiefdom Council, consisting primarily of paramount chiefs and sub-chiefs, must give consent before any non-native who wishes to occupy land in the Provinces can occupy such land.²⁰ Under the Act, non-native refers to “any person who is not entitled by customary law rights in land in a Province.”²¹ Non-natives can occupy land for an initial period of up to 50 years, but rights of occupation can be extended for a second or “further” terms “not exceeding 21 years.”²² Non-natives who wish to acquire land, whether Sierra Leonean citizens or foreigners, often face numerous, unclear, and frequently-changing requirements.²³ Sierra Leone has also passed the Non-Citizens (Interest in Lands) Act, 1966, which stipulates that non-citizens are not allowed to purchase or receive in exchange or as a gift any freehold land in the Western Area.²⁴

Western Area

Freehold land in the Western Area can be bought and sold by citizens, and there are no established restrictions on the sale of land or land leases.²⁵ Since the Western Area is predominantly urban, land is in high demand and is usually bought for housing and infrastructure development. The government has often encouraged foreign investors to lease land in the Western Area, but foreigners are not permitted to purchase, acquire or otherwise obtain freehold rights.²⁶ By law, the government can lease state land to foreign investors for commercial and industrial use.²⁷

⁹ World Bank, Sierra Leone: Land Governance Assessment Framework (LGAF) Draft Final Report (World Bank, 2015).

¹⁰ World Bank, 2015: 42.

¹¹ Ryan, 2018.

¹² Ryan, 2018

¹³ Government of Sierra Leone (GOSL), Provinces Land Act Cap 122 (1960): Section 3.

¹⁴ GOSL, 1960: Section 3.

¹⁵ GOSL, Chieftaincy Act (2009): Section 3.

¹⁶ Ryan, 2018

¹⁷ USAID, 2010.

¹⁸ Oakland Institute, Understanding Land Investment Deals in Africa: Country Report – Sierra Leone (Oakland Institute (2011).

Broad government authority to acquire or lease any land in Sierra Leone

Under Sierra Leonean law, the government has broad authority to acquire any land within the country for public purposes. In addition to the expropriation clause established in Section 21 of the Constitution, the Governor²⁸ can acquire any tract of land for “public works”, a term vaguely defined as any measure involving public expense.²⁹ The law does not prohibit the Governor from granting public land concessions to private companies, even when it is unclear whether the company will actually stimulate local economic growth or otherwise benefit the public. Similarly, the Unoccupied Lands Act, Cap 117 of 1960 states that whenever the Director of Surveys and Lands is of the opinion that any land is “unoccupied,” it shall be lawful for the director to designate such land as “state land”.³⁰ This provision puts customary occupiers and users of undeveloped commons (for example, forests, rangelands) at risk of dispossession, since the government may falsely assume that such areas are “unoccupied” even when, in fact, they have been occupied and used by customary landholders for farming and other livelihood needs for centuries. Along similar lines, the Local Government Act of 2004 gives local councils, including district councils, broad authority to acquire and hold land in districts.³¹

Management of land for social or environmental welfare

Voluntary Guidelines on the Responsible Governance of Tenure and the African Union Framework and Guidelines on Land Policy in Africa

While Sierra Leone has not yet enacted binding land laws and regulations that explicitly comply with the principles established in the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) and the African Union Framework and Guidelines on Land Policy in Africa (AU Guidelines), the National Land Policy (NLP) of Sierra Leone of 2015 references both of these international instruments in several places.³² For the provisions of the NLP to be binding on state and non-state actors in Sierra Leone, Sierra Leone must enact implementing legislation and/or regulations that give teeth to the NLP. However, since 2015, the passage of land law reforms in Sierra Leone has been delayed due to low political commitment, limited financial capacity, and other hurdles.

The NLP is designed to “move [Sierra Leone] towards a clearer, more effective and just land tenure system that shall provide for social and public demands, stimulate responsible investment and form a basis for the nation's continued development.”³³ The NLP references the AU Guidelines and the VGGT as noteworthy guidance for developing comprehensive and substantive land policy reform in Sierra Leone.³⁴

¹⁹ USAID, 2010

²⁰ GOSL, 1960.

²¹ GOSL, 1960: Section 2.

²² GOSL, 1960: Section 4

²³ Oakland Institute, 2011:18.

²⁴ “Non-citizen” is defined as including companies, associations or bodies in which more than half of all members are non-citizens. GOSL, Non-Citizens (Interest in Lands) Act (1966): Section 2.

²⁵ World Bank, 2015: 37.

²⁶ GOSL, Land Development (Protection) Act (1962): Sections 3-4.

²⁷ GOSL, 1962: Sections 3-4.

The VGGT are also listed in the implementing strategies set out in the NLP, which state “the Government shall... facilitate the development of consultations, consistent with the VGGT, on the redistribution, including the balancing the needs of all parties and on approaches to be used.”³⁵

Since 2014, several multi-stakeholder committees have been formulated to host workshops and discuss the adoption of VGGT principles in Sierra Leone.³⁶ Within the Ministry of Lands, there are two dedicated staff members that provide technical support to all members of the VGGT committees. The VGGT committees aim to adopt policy reforms. The Forestry Division and communities have come together to write forest policies. Currently, FAO is working to help Sierra Leone implement the VGGT at the community level in order address land disputes and other land governance challenges. The Ministry of Lands and FAO also host a National VGGT Forum that meets regularly and brings together government, UN, and civil society actors.

Free, prior and informed consent

While legal binding provisions or official guidelines on free, prior and informed consent of communities have not been adopted in Sierra Leone, the NLP calls for the government to establish clear guidelines for obtaining the free, prior and informed consent of communities, landowners and users where land investment is proposed.³⁷

FAO and the Government of Sierra Leone have published Draft Guidelines and Sustainable Agricultural and Bioenergy Investment, which contain model lease agreements to be used by communities and investors.³⁸ These model lease agreements require that the Chiefdom Council must give their consent to lease agreements. However, ethnographic research indicates that, while in theory land lease agreements in Sierra Leone must have free, prior and informed consent, this is not implemented well in practice: many community respondents had only a very basic understanding of the terms of the lease agreements, and some people claimed they never saw copies of lease agreements.³⁹ Moreover, many community members, especially women, are often excluded from decision-making on land-related matters. There are few to no structures in place to ensure members of communities are actively involved in the process of forming land lease agreements. Community discussions and decision-making about land are often male-dominated since men are heads of landowning families; consequently, the non-inclusion of women's viewpoints in decision-making remains a serious concern.⁴⁰

For these reasons, more work needs to be done to develop effective criteria for implementing free, prior and informed consent, and ensuring gender-sensitive decision-making on land at the community level. At the same time, there needs to be greater political commitment to pass legal reforms to Sierra Leone's land laws so that the NLP can be fully implemented across the country.

²⁸ When this law was passed in the colonial era, the “Governor” referred to the British government representative. Currently, “Governor”, for the purposes of the law, is synonymous with “President of Sierra Leone”.

²⁹ GOSL, Public Lands Ordinance (1960b): Sections 2 and 4.

³⁰ GOSL, Unoccupied Lands Act (1960b): Section 3.

³¹ GOSL, Local Government Act (2004): Section 4.

³² GOSL, NLP (2015).

³³ GOSL, 2015: 1

³⁴ GOSL, 2015: 4.

³⁵ GOSL, 2015, 102.

³⁶ FAO, “Implementation of the Voluntary Guidelines on the Responsible Governance of Tenure in Sierra Leone” (FAO, 2016). Available at: www.youtube.com/watch?v=_6cpVRTsM4

APPLYING THE RESEARCH FRAMEWORK

Sections A to E present the research findings that resulted from applying the research framework for assessing beneficial landownership and control to the case of Sierra Leone. A summary of the research findings can be found at the start of each section. A brief concluding analysis and recommendations are provided in Chapter IV. Headlines from each of the sections of the research framework were considered against an “ideal,” as roughly outlined by the research framework. These are highlighted throughout Section III of the report.

- A green rating indicates a positive or progressive element.
- An amber rating indicates an element that is partially positive and could be built on, OR a progressive element which is as yet untested, unevaluated or subject to considerable amount of uncertainty.
- A red rating indicates a substantial departure from the ideal.

A

LAND REGISTRY STRUCTURE AND INFORMATION COLLECTION

- Only the full name, volume, page number, and land address are shown in the Office Administrator and Registrar General's (OARG) online land registry.
- The 2015 National Land Policy calls for the current system of deed registration to be replaced with a land title registration system.
- There has been an attempt to automate the link between OARG and Ministry of Land Country Planning and Environment (MLCPE) in the transfer of land documents through the implementation of the Land Registration Project at MLCPE and the Electronic Documentation of Land Records Project at OARG.
- OARG maintains a deed registration system that applies only in the Western Area and it does not maintain a cadastre that shows the location, boundaries and rights attached to land and resources.
- A national registry of land ownership information does not exist.
- There is no land registration system in the Provinces (communal land areas).
- Systems for mapping and recording collective rights on communal lands in the Provinces currently do not exist.
- The following information is missing from the OARG registry: type of land, valuation of land, buy/sell date, names of previous owners, whether the owner is a business or legal entity, business/corporation ID numbers, maps/boundary information, and beneficial ownership information.

Current issues pertaining to the land registration system

In Sierra Leone, formal land records exist, but these records are limited to the Western Area.⁴¹ Systems for mapping and recording collective rights on communal lands in the Provinces currently do not exist.⁴² Furthermore, only a small percentage of all lands in the rural and urban areas are recorded and mapped.⁴³

Based on our research of the land registration system in Sierra Leone, implementing reforms to the registration will require not only government capacity and political will, but also measures to ensure people at the community level recognise land registration systems as valid, legitimate

and binding. Assistance mechanisms should be put in place to address language barriers, literacy levels, the cost of travelling to registrar offices, and other challenges that need to be overcome for communities to embrace and effectively utilise land registration information.

Currently, in the Western Area, OARG is charged with registering legal instruments, including records of land transactions, deeds and properties. However, the OARG land registry contains only limited information, is not updated regularly, and does not provide information on beneficial ownership. The 2015 NLP highlights the lack of an effective, robust land registration and management system for recording and titling land rights as a major issue that must be resolved. According to the NLP, tenure insecurity has often resulted from “the absence of a

system of registration of titles; lack of proper cadastral mapping and land information... weak land administration and management... lack of a proper land use information database for state, private, and customary lands.”⁴⁴ The enactment of a nationally applicable law that will make provision for the registration of land titles is listed as one of the Ministry of Land’s activities to be carried out in 2018. Such a law would help ensure that land titles and interests in land and natural resources are recorded in both the Western Area and the Provinces.

OARG has not yet been fully decentralised, even though it should have been devolved to local councils after 2008.⁴⁵ Failure to implement a functional, widely-accessible land registration system in the Provinces, where communal lands are governed following customary law, has contributed to several negative outcomes: for instance, illegal land sales in both the Western Area and the Provinces have increased in recent years.⁴⁶

Legal requirements applicable to land registration

Currently, the governing law pertaining to land registration in Sierra Leone is the outdated General Registration of Instruments Act CAP 255 of 1960.⁴⁷ Under Section 11 of the Act, the Registrar-General has authority to register any State Grant (including grants of land) upon the production and request of the holder of that grant, and to copy and register these grants in the Register Book. Section 9 of the General Registration Act, CAP 255, 1960 states “the Registrar General and all Registrars shall permit search to be made in the records, instruments, registers, or copies of records...” However, this law does not explicitly stipulate that beneficial owners must be identifiable or accessible in the land registry.

According to the World Bank Land Governance Assessment Framework (LGAF) Report, “registration of instrument by OARG can be traced as far back to the colonial period... The OARG has registered a total of 28,333 land instruments since it commenced operation.”⁴⁸ However, OARG only operates in the Western area. With respect to communal land in the Provinces, “...local government bodies such as local councils and the Ministry of Land Country Planning and Environment (MLCPE) have a rough inventory of lands owned under the customary. [However] there is no stand-alone data on land parcel registered.”⁴⁹ Land registration does not provide landholders with tenure security since, under the General Registration of Instruments Act, a registry of deeds or instruments is only evidence that a transaction has taken place. This registration cannot be used as legal proof of land rights. In Sierra Leone, courts have the discretion to determine who has rights to land, but without an adequate land records system, courts do not have sufficient guidance to rule on land claims.

Characteristics of the OARG land registration system

OARG only maintains a deed registration system, it does not maintain a cadastre that shows the location, boundaries and rights attached to land and resources. Land record information is not clearly linked to maps. “[T]he main link between the MLCPE and OARG is that survey plans are prepared by the MLCPE and sent to OARG for registration.”⁵⁰

⁴¹ FAO, Implementation of the Voluntary Guidelines on the Responsible Governance of Tenure in the Forestry Legislation in Sierra Leone (FAO, 2015).

⁴² World Bank, 2015: 7.

⁴³ World Bank, 2015: 7.

⁴⁴ GOSL, 2015, p. 1.

⁴⁵ World Bank, 2015: 106.

⁴⁶ World Bank, 2015: 37.

⁴⁷ GOSL, General Registration of Instruments Act CAP 255 of 1960 (1960c).

Only the full name, volume, page number and land address are shown in OARG's online land registry. Although survey plans are not accessible online, there is a signed survey plan generated by the Director of Surveys and Lands at the MLCPE for each document registered, which includes the names of the property owner, with identification numbers that are organised serially to avoid duplication and enhance the searching process.

There are no internationally agreed upon standards or best practices for land registries; however, a group of International Land Coalition members with expertise in transparency issues recently agreed⁵¹ that, in order to ensure adequate transparency and accountability around land ownership, land registries should include the following information:

- type of land
- valuation of land
- buy/sell date
- names of previous owners
- whether the owner is a business or legal entity
- business/corporation ID numbers
- maps/boundary information
- beneficial ownership information

The OARG land registry is currently missing all of this information, meaning that landholders may be unable to

effectively identify and hold accountable investors and entities with beneficial ownership rights to land and resources.

For further information, see Annex B for information on deed requirements and fees for registering land in the Western Areas.

Government commitments and plans to improve the land registration system

While Sierra Leone currently lacks a national land registry, the government has made several commitments and taken some steps to develop functional land registration systems that can be utilised throughout the entire country. The Local Government Act 2004 established a timeline for setting up land registration units at the local level, training around land registration, and initiating registration processes throughout the country; however, the implementation process has faced significant delays.⁵² This timetable stipulated that:

1. the MLCPE must pass over land surveying responsibilities to local surveying units by 2008
2. survey units within local councils will be established starting in 2006
3. training will commence in 2007
4. the actual surveying will start by 2008⁵³

Evidently, this timeline was not followed.

⁴⁸ World Bank, 2015: 78.

⁴⁹ World Bank, 2015: 37.

⁵⁰ World Bank, 2015: 79.

⁵¹ On 13–14 September 2017, Transparency International convened a meeting at their offices in Berlin, Germany. Several International Land Coalition member organisations attended this meeting, including Global Witness, Welthungerhilfe, and International Alliance on Land Tenure and Administration. The methodology was then sent to Trocaire and other organizations for approval. This group of International Land Coalition member organisations agreed on the methodology as part of a project related to the Coalition's Commitment 8: Transparent and Accountable Information. For information on the Coalition commitments see: www.landcoalition.org/en/regions/global-including-europe/resources/guide-ilcs-commitments

⁵² World Bank, 2015: 21.

⁵³ World Bank, 2015: 21.

⁵⁴ World Bank, 2015: 28.

⁵⁵ Z. Joaque, "Compulsory Land Registration to Be Enforced", Awoko (web), 7 August 2017.

⁵⁶ Joaque, 2017.

⁵⁷ FAO, "A good practice on the implementation of the Voluntary Guidelines on the Responsible Governance of Tenure: A multi-actor and multi-sector approach in Sierra Leone" (FAO, 2016).

The 2015 NLP also calls for the current system of deed registration to be replaced with a land title registration system. The MLCPE has started a Land Registration Project but implementation of the project has been delayed due to funding constraints.⁵⁴ According to a media article published in August 2017, the government is considering making land registration compulsory and putting all surveys, maps and titles in a single agency called the Sierra Leone Land Title Registry.⁵⁵ According to the article “the system shall be comprehensive in the sense that all rights claims to land will be registered, including ownership, possession for a term of years (leases), mortgages, and other liens (e.g. judgment liens) servitudes and covenants, hostile claims (caveats), and possessory rights not amounting to legal title.”⁵⁶

FAO has invested in several initiatives aimed at fixing the current system of land administration and management, which is largely paper-based and contains a significant amount of errors and inefficiency in the registration process. To build a more efficient and transparent registration process, FAO is supporting the government of Sierra Leone in implementing Solutions for Open Land Administration a land administration and registration software.⁵⁷ The Solutions system establishes effective links between the MLCPE and OARG through a digital cadastre system that improves quality of data, helps to introduce transparency in land administration, and promotes reliability in protecting both private and customary rights in accordance with the law.

According to the World Bank LGAF report, there has also been an attempt to automate the link between OARG and the MLCPE in the transfer of land documents through the implementation of the Land Registration Project at the MLCPE and the Electronic Documentation of Land Records Project at OARG, both funded by the Investment Climate Facility for Africa.⁵⁸

⁵⁸ World Bank, 2015: 28.

B

ACCESS TO INFORMATION ON LAND OWNERSHIP AND CONTROL

- Although the General Registration Act Cap 255 and the Registration of Instruments Act CAP 256 establish some legal requirements designed to ensure adequate recording of public land allocations to private investors, and public accessibility of these records, these legal requirements are often not complied with in practice, leading to situations where such records are only partially kept.
- The government passed the Right to Access Information Act in 2013. However, in addition to the unavailability of information and the limited capacity of government to respond to information requests, many people are not aware that they have a legal right to request information from the government.
- The government of Sierra Leone does not maintain an official record of the amount of land being leased or otherwise allocated by the central government, local governments, and landowning families to private individuals, companies and other legal entities.
- No law has been enacted and no policy guideline has been adopted that requires public disclosure of land deals.

The Government of Sierra Leone does not maintain an official record of the amount of land being leased or otherwise allocated by the central government, local governments and landowning families to private individuals, companies and other legal entities.⁵⁹ No law has been enacted and no policy guideline has been adopted that requires public disclosure of land deals, and “thus there are no measures to ensure even a minimum level of transparency and accountability.”⁶⁰

According to research conducted on customary land tenure in Sierra Leone, the unwritten nature of customary law, property rights and contracts is a significant source of uncertainty and high enforcement costs:

“‘ownership’ of most parcels of land is not clearly prescribed and known, and boundaries are often unclear, leading to bush disputes... written contracts are very seldom made. Instead, the contracts are made verbally in front of witnesses. This allows too much scope for double-dealing... witnesses may die or give different interpretations of the same agreement.”⁶¹

The Ministry of Agriculture, Forestry and Food Security (MAFFS)⁶² has stated that companies investing in Sierra Leone are obliged to sign a memorandum of understanding with MAFFS and to submit a three- to five-year investment plan.⁶³ MAFFS requires that all proposed investment projects must undergo an Environmental Impact Assessment prior to initiating the project but research shows that, in some cases, investors negotiate directly with chiefs, without involving MAFFS, and have circumvented these requirements.⁶⁴ Land deals in Sierra Leone are not effectively tracked and monitored; according to the Oakland Institute, “there appears to be considerable confusion among government ministries about land investment requirements and about the entry point, control, and monitoring of investments.”⁶⁵ Research indicates that, as at 2010, 500,000 hectares of land in Sierra Leone had been leased out to agricultural investors, even though there was a general lack of official and clear information on these land deals.⁶⁶ Land Matrix published a brief on Sierra Leone in 2016, which shows that at least 24 land deals were concluded between 2000 and 2015, and these deals cover an area of 773,999 hectares.⁶⁷ Most concluded deals involved the acquisition of land that was formerly used for smallholder agriculture.⁶⁸

Although the General Registration Act Cap 255 and the Registration of Instruments Act CAP 256 establish some limited legal provision designed to ensure the recording of public land allocations to private investors, and public accessibility of these records, these legal requirements are often not complied with in practice, leading to situations where such records are only partially kept.⁶⁹ According to the World Bank LGAF report: “civil society groups and NGOs have expressed concern about the lack of transparency and weak regulatory framework surrounding larger investor land deals and confusion about the availability of land for investment in rural communities...”⁷⁰

Access to information framework and anti-corruption measures

In 2013, the Government of Sierra Leone passed the Right to Access Information Act, 2013.⁷¹ The Act stipulates that “every person has the right to access information held by or under control of a public authority....[or] a private body.”⁷² Information requests must be complied with “as soon as possible, and in any event within fifteen working days of receipt of the application.”⁷³ However, as previously discussed, the Government of Sierra Leone has not maintained comprehensive land records or otherwise tracked land deals that have taken place in the country, so it is unlikely that information requests will enable adequate access to beneficial land ownership information – such information does not exist. According

to a news article published in 2014, civil society groups have complained that the Right to Access Information Act lacks teeth because, following the passage of the act, the government failed to formulate a delivery plan, which caused delays for those citizens wishing to exercise their right to access government records.⁷⁴

In addition to the unavailability of information and the limited capacity of the government to respond to information requests, there is an even bigger issue: many people in Sierra Leone are not aware that they have a legal right to request information from the government. Many people also lack the knowledge and capacity to submit information requests because they are illiterate or do not have enough time or money to travel to government offices and submit such requests. According to the CIA's World Factbook, only 48 per cent of the population of Sierra Leone can read and write.⁷⁵

Sierra Leone enacted an Anti-Corruption Act in 2000, under which an Anti-Corruption Commission was established.⁷⁶ This act was amended in 2008 to give more powers to the Commission. The act criminalises bribery, bid rigging, corruption, misappropriation of public funds, abuse of office and other offences.⁷⁷ The provisions of this Act can presumably be used to bring beneficial landowners engaged in corrupt practices to justice.

⁵⁹ Oakland Institute, 2011: p. 20

⁶⁰ Oakland Institute, 2011: p. 20.

⁶¹ O. E.G. Johnson, “Reforming the Customary La System in Sierra Leone: A Proposal” (International Growth Centre, 2011).

⁶² There are several institutions that deal with land governance-related matters in Sierra Leone (see Annex B).

⁶³ Oakland Institute, 2011: p. 20.

⁶⁴ Oakland Institute, 2011: p. 20.

⁶⁵ Oakland Institute, 2011: p. 20.

⁶⁶ Oakland Institute, 2011: p. 21.

⁶⁷ Land Matrix, Sierra Leone Country Profile: Large-scale land acquisitions in Sierra Leone (Land Matrix, 2016).

⁶⁸ Land Matrix, 2016.

⁶⁹ World Bank, 2015: 65.

⁷⁰ World Bank, 2015: 84.

⁷¹ GOSL, the Right to Access Information Act (2013).

⁷² GOSL, 2013: Sec. 2(2)-2(3).

⁷³ GOSL, 2013: Sec. 4.

⁷⁴ Thomas, A. R., “Sierra Leone's Freedom of Information Act needs activating”, The Sierra Leone Telegraph, 10 February 2014.

⁷⁵ CIA, World Factbook, 2018.

⁷⁶ GOSL, Anti-Corruption Commission Act (2008); see also the Anti-Corruption Commission website: www.anticorruption.gov.sl/index.php?pn=Home&pn=Home

⁷⁷ GOSL, 2008: Sections 26-52.

C

BENEFICIAL OWNERSHIP LEGAL FRAMEWORK

- Beneficial ownership provisions exist in other laws enacted in Sierra Leone, such as the Petroleum (Exploration and Production) Act, 2011, the Mines and Minerals Act, 2009, the Companies Act, 2009, and the Anti-Money Laundering and Combating of Financing of Terrorism Act 2012.
- Sierra Leonean laws applicable to land ownership and registration do not include provisions that require disclosure of beneficial land ownership or stipulate that the identity of beneficial owners must be publicly disclosed.

Sierra Leonean laws applicable to land ownership and registration do not include provisions that require disclosure of beneficial land ownership or stipulate that the identity of beneficial owners must be publicly disclosed. However, beneficial ownership provisions exist in other laws enacted in Sierra Leone, such as laws applicable to mineral and petroleum extractive activities.⁷⁸ Under the Mines and Minerals Act, 2009, applications for reconnaissance, exploration and large-scale mining licences must be submitted to the Mining Cadastre Office and must contain "... the name of every shareholder who is the beneficial owner of five percent or more of the issued share capital."⁷⁹ Similar provisions exist in the Petroleum (Exploration and Production) Act, 2011.⁸⁰ However, neither the Mines and Minerals Act nor the Petroleum Act define the term "beneficial owner," meaning it is unclear which individuals are obligated to disclose their beneficial ownership rights.⁸¹ Moreover, the laws fail to set requirements for disclosing ownership of licence transferees and other beneficial ownership rights aside from those listed in

the initial licence and permit applications.⁸² The National Minerals Agency Act, 2012, does not provide any beneficial ownership provisions; in practice, the National Minerals Agency does not request ultimate beneficial ownership disclosure, only disclosure of a company's shareholdings.⁸³

The Extractive Industries Transparency Initiative conducted a study of beneficial ownership in the extractive industries sector in Sierra Leone in 2015.⁸⁴ The study concluded that "the current legal framework in Sierra Leone is insufficient to provide the powers needed by government agencies to mandate disclosure by companies operating in the extractives sector or wishing to do so."⁸⁵ However, steps are being taken to address this insufficiency. According to the Initiative, "Sierra Leone is collecting beneficial ownership information from the 20 largest extractive taxpayers."⁸⁶

⁷⁸ Sierra Leone Extractive Industries Transparency Initiative (SLEITI), *Sierra Leone Beneficial Ownership Roadmap 2016–2020* (2016).

⁷⁹ GOSL, *Mines, and Minerals Act* (2009): Sections 57, 70, and 106.

⁸⁰ GOSL, *the Petroleum (Exploration and Production) Act* (2011): Sections 21 and 37.

⁸¹ GOSL, 2011: Sections 21 and 37.

⁸² SLEITI, 2016: p. 4.

⁸³ SLEITI, 2016: p. 4.

⁸⁴ SLEITI, 2016: p. 4.

⁸⁵ SLEITI, 2016: p. 4.

⁸⁶ SLEITI, 2016: p. 4.

⁸⁷ See: <https://eiti.org/sierra-leone#beneficial-ownership-disclosure> (2 March 2018).

⁸⁸ GOSL, *Companies Act* (2009).

⁸⁹ GOSL, 2009: Section 81(1).

⁹⁰ GOSL, *Anti-Money Laundering and Combating of Financing of Terrorism Act* (2012): Section 1, 22 and 54.

Several laws have beneficial ownership provisions: the Companies Act, 2009 (amended 2014), established the Corporate Affairs Commission and grants it authority to request and receive information related to beneficial interests in shares.⁸⁷ However, this provision only applies to public companies; private companies are exempt from legal provisions established in the Companies Act.⁸⁸ The Companies Act states that companies have the discretion to require members of the company to disclose beneficial ownership information and beneficial interests in shares, but this is discretionary – companies are under no legal obligation to do so. The Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012, requires sufficient information collection related to beneficial owners.⁸⁹

D

ACCESS TO INFORMATION ABOUT BUSINESSES AND OTHER LEGAL ENTITIES

- OARG hosts a registry of businesses; however, the registry is not yet posted online.
- The OARG website contains a “Business and Company Name Search” feature, but there is no beneficial ownership information listed on the website.
- The Companies Act states that companies have the discretion to require members of the company to disclose beneficial ownership information and beneficial interests in shares, but this is discretionary – companies are under no legal obligation to do so.
- There is no official, publicly available registry of businesses operating in the Provinces.
- In OARG, there is no established link between the business registry and land registry that shows on a map which companies own what land and where.
- There are no incentives and/or sanctions for not reporting beneficial ownership information, except if individuals or entities are being investigated under the Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012.

While OARG has developed a Business registry, there is no official, publicly available list of registered businesses that are operating in the Provinces. In the Western Area, the following types of legal entities can be formed in Sierra Leone: sole proprietorships, partnerships, and limited liability, public and private companies.⁹⁰ OARG hosts a registry of businesses; however, the registry is not yet posted online. See Annex B for a list of fees associated with business registration.

The OARG website contains a “Business and Company Name Search” feature, but there is no beneficial ownership information listed on the website. Also, there is no established link between the Business Registry and Land Registry that shows on a map which companies own what land and where.

⁹⁰ GOSL, 2009; Sec. 15. See OARG Mapping a Procedure to Register a Business: www.oarg.gov.sl/Best%20Business%20for%20me.html

E

RESPONSIBILITIES OF LANDOWNING ENTITIES

- Pursuant to the Environment Protection Agency Act, 2008, an Environmental Impact Assessment is required if landowner activities will cause environmental degradation.
- The NLP, 2015, calls for measures that will stimulate local production, with the ultimate goal of guaranteeing food security and realising the right to food for everyone, particularly the vulnerable and marginalised, but the policy is not legally binding.
- The NLP, 2015, acknowledges the VGGT and calls for business enterprises and other non-state actors to address human rights concerns, but these obligations are not legally binding.
- The Human Rights Commission has recently developed Guidelines for Monitoring Business and Human Rights in Sierra Leone, and is currently sharing the guidelines with members of the private sector.
- Land was identified as a priority issue of the Human Rights Working Group (a group chaired by the Commission, with members from government, international NGOs, NGOs, civil society and donor agencies) in late 2017.

The previous sections have indicated that Sierra Leone's policy frameworks fail to ensure the public has adequate access to land registration and beneficial ownership information. The lack of transparency makes it more difficult for the public to hold investors and other legal entities accountable for any violation (environmental, human rights, etc.) they commit. The following section examines whether, if, or when, beneficial landowners are identified and disclosed, these beneficial owners have responsibilities to manage their land to further human rights, food security and environmental objectives.

Environmental responsibilities

There are few legally binding obligations imposed on entities that own and control land to consider the environmental and social impacts of their activities. Sierra Leone's Environment Protection Agency Act, 2008, requires landholders to obtain an Environmental Impact Assessment Licence prior to engaging in activities that involve substantial changes in natural resource extraction, exploitation of hydraulic resources and other activities.⁹¹

An Environmental Impact Assessment is required if the activity will cause environmental degradation or impact communities or ecosystems, or cause the diminution of the "aesthetic, recreational, scientific, historical, cultural or environmental quality."⁹² According to one study, "[an Environmental Impact Assessment] is loosely integrated with the feasibility studies [for donor-funded development projects] and there is no sufficient involvement and consultation of the communities concerned."⁹³

Food security responsibilities

The NLP establishes several socioeconomic principles, and states: "... it is necessary to incorporate measures that will stimulate local production with the ultimate goal of guaranteeing food security and realizing the right to food for everyone, particularly the vulnerable and marginalized."⁹⁴ The NLP obliges the government, presumably MAFFS, to "monitor the outcome of public/government

land management programs, including the gender-differentiated impacts on food security and poverty eradication as well as their impacts on social, economic, and environmental objectives.”⁹⁵

Human rights responsibilities

As a member of the United Nations and the African Union, the Government of Sierra Leone has ratified and made commitments to several notable human rights treaties. For example, Sierra Leone has ratified:

- the International Covenant on Economic, Social and Cultural Rights, 1976
- the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1981
- the African Charter on Human and People's Rights, 1986.

These international human rights treaties contain land-related provisions, such as the right to property and housing, and the right to an adequate standard of living.⁹⁶ For example, Article 16 of CEDAW calls for state parties to take appropriate measures to eliminate discrimination by granting “the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment, and disposition of property.” Sierra Leone also voted in favour of the UN Declaration on the Rights of Indigenous Peoples in 2007. This declaration recognises the right of indigenous peoples to their land and resources.⁹⁷

While non-binding on state and non-state actors, the NLP stipulates that it “shall ensure equal rights of women and men in the enjoyment of all human rights...”⁹⁸ The NLP also imposes an obligation on non-state actors including business enterprise to “respect human rights...and include appropriate risk management systems to prevent and address adverse impacts on human rights and legitimate tenure rights...” Sierra Leone has also established a Human Rights Commission, charged with protecting and promoting human rights throughout the country.⁹⁹ In late 2017, land was identified as a priority issue of the Human Rights Working Group (a group chaired by the Commission, with members from government, international NGOs, NGOs, civil society and donor agencies).

The Human Rights Commission has recently developed Guidelines for Monitoring Business and Human Rights in Sierra Leone, and is currently sharing the guidelines with private sector actors.¹⁰⁰ The guidelines provide several land-related criteria by which company performance should be measured, including:

1. When purchasing, leasing or using land or property, does the company identify all legitimate property interests and ensure that the seller/lessor is legitimate?
2. Does the company ensure that it does not participate in or benefit from forced evictions, and ensure that all former inhabitants and legitimate landowners are provided with adequate land, housing and/ or compensation?

The guidelines contain a checklist for companies to follow to ensure they are satisfying each of these criteria.

⁹¹ GOSL, Environmental Protection Agency Act, 2008: First Schedule.

⁹² GOSL, 2008: Second Schedule

⁹³ L. Blinker, Country Environment Profile: Sierra Leone (European Commission, Parsons Brinckerhoff, 2006).

⁹⁴ GOSL, 2015: p. 6

⁹⁵ GOSL, 2015: p. 53.

⁹⁶ International Covenant on Economic, Social and Cultural Rights: Article 11; African Charter on Human and People's Rights, Article 14; and CEDAW: Article 16.

⁹⁷ United Nations, Declaration on the Rights of Indigenous Peoples (United Nations, 2007): Article 26(1).

⁹⁸ GOSL, 2015: p. 8.

⁹⁹ GOSL, 2004:

¹⁰⁰ Human Rights Commission of Sierra Leone, Guidelines for Monitoring Business and Human Rights in Sierra Leone (Human Rights Commission of Sierra Leone, 2013).

CONCLUSION AND RECOMMENDATIONS

The research presented here demonstrates that Sierra Leone has not yet developed a land registration system that tracks land deals and discloses the identities of those who have a right to retain significant economic benefits from land and natural resources. Furthermore, the legal and policy frameworks related to land information access, as well as protection of the environment, human rights, governance, accountability and food security have not been fully implemented or enforced in practice. In order to address these issues, the Government of Sierra Leone should consider adopting the following recommendations:

1.

Enact a law or regulation that requires beneficial ownership and other information to be included in a land registry system that covers the whole country. The land registries should include maps and cadastral information for each parcel, including the land type, last buy/sell date, name of current owner, name of previous owner, business or corporation identification, type of business/organisation, and start and end date of a lease or concession, as well as information on beneficial ownership. The law or regulation should also regulate the protection of and rights to communal resources.

2.

Regularly update the information included in the land and business registries and require private companies and other entities to disclose beneficial ownership information.

3.

Ensure that all information about land leases and concessions is regularly updated and easily accessible to the public.

4.

Build government and public capacity to utilise land registries through training workshops, pamphlets, and other capacity-building tools, with a particular focus on ensuring communities are able to access and recognise land registration systems as valid, legitimate and binding.

5.

Provide the public with assistance mechanisms that remove or reduce language, literacy, financial and other barriers that need to be overcome for communities to embrace and effectively utilise land registration information.

6.

Enable the public to understand their legal rights to access information, obtain redress through the justice system, and hold government and private actors accountable for violating the environment, human rights and food security principles, as established in the NLP and other frameworks.

ANNEXES

1. The detailed research framework

Throughout the research framework, the ♦ symbol denotes suggestions for how the research could be taken further if demand allows. ■ Indicates additions that were made to the research after testing.

A. LAND REGISTRY STRUCTURE AND INFORMATION COLLECTION

There is no one internationally agreed best practice for land registries. However, in the interests of transparency and collecting information which can be used to identify owners and hold them accountable, countries might have centralised land registries that contain information on the real beneficial owners (foreign and domestic) of all types of land; basic mapping coordinates; and any specific limitations on the use of the land in question.

Questions	Suggested methods
<p>1. How is the land registry in the country structured? (Is there a centralised registry for all types of land ownership and control, including long-term leases and concessions? Does it include customary or communally used land)? At the national level? Subnational level? Are records of different types of land ownership kept at different levels? Which administrative body controls the registries? Please specify if there is a specific type of land (e.g. communal land or land controlled by customary law) that is not included in a registry.</p>	Legal review
<p>1.1 In practice, are the registries maintained according to the law?</p> <p>♦ Please additionally assess at the subnational level or less primary registries.</p> <p>■ Is a specific type of land that (legally) should be included in the registry consistently missing in practice? (For example, customary held land or communally used land).</p> <p>■ Do specific groups of people or types of land face barriers to registration? (For example, access to surveyors, knowledge of registration protocols, etc.) Do you need to be able to identify legitimate interest or pay a fee?</p>	Interviews with registry officials and civil society organisations working on transparency, governance, and land rights
<p>2. For each registry in the country, does the law specify what information should be contained? If yes, please select all that apply:</p> <ul style="list-style-type: none"> • type of land • type of tenure • valuation • chain of transactions in the past or at minimum the last buy/sell date • name of current owner • names of previous owners • business ID number of a corporate owner 	Legal review

Questions	Suggested methods
<ul style="list-style-type: none"> personal ID of a natural person start and end date of a lease or concession for public land, specific purpose for which a concession or lease was granted maps beneficial ownership information <p>■ If the owner is a legal entity (for example, a limited liability company) or a legal arrangement (for example, a trust) what information is available in the land registry?</p>	
2.1 In practice, which elements of this information seem complete and which are systematically missing information? If the country has more than one registry, do stakeholders perceive some to be more complete than others? Which?	<p>Interviews with registry officials or local government to understand in practice what common gaps are (if any), and with civil society organisations working on land rights. If the registry is publicly available, the researcher should examine the registry herself.</p> <p>◆ For simple research, researchers should choose whichever approach they believe will be easiest in their context; for more complex assessments, both should be used.</p>
3. Does the government regularly update registry information? Are others, such as landowners, responsible for such updates? (Please answer for each registry).	Legal review; interviews with registry officials If the registry is publicly available, the researcher should examine the registry herself.
4. Do any of the laws or regulations that govern land-ownership and control, including long-term leases and concessions, require beneficial ownership to be provided? (If no, does the country have any policies or standards that address beneficial ownership of land?)	Legal review
4.1 Are there any incentives to encourage individuals or entities to meet voluntary disclosure standards, even if they are not required to do by law? (If yes, what?)	Legal review + interviews with corporate law firms in the country; country Extractives Industry Transparency Initiative reports; openlandcontracts.org

B. ACCESS TO INFORMATION ON LAND OWNERSHIP AND CONTROL, INCLUDING LONG-TERM LEASES AND CONCESSIONS

For the purpose of enabling communities or governments to hold landowners accountable, countries might have registries that are open to the general public without a fee; make them available online; and make them searchable by different criteria.

Questions	Suggested methods
<p>1. Can the public access information about land ownership and control? Please select all forms of ownership that apply. (If the country has different registries for different types of land, please answer separately for each primary registry).</p> <ul style="list-style-type: none"> ◆ Can this information be analysed in aggregate or only by individual titles/land use certificates? ◆ What are the technical specifications and formatting of this data? ◆ If registries exist at the subnational level, please assess the registry in a representative (by population or GDP/capita) region/state. ◆ Can land registry information be disaggregated by gender? <p>How and who</p> <ul style="list-style-type: none"> • free • online/email/mail • within a specified timeframe • any member of the public • for a small specified fee • in person only • ad hoc timeframe/not specified • only an individual or entity who can prove a relationship to the land <p>What type of information</p> <ul style="list-style-type: none"> • all land record information collected by law • valuation • last buy/sell date • name of current owner/legal owner • names of previous legal owners • start and end date of a lease or concession • for public land, specific purpose for which a concession or lease was granted • maps 	<p>Legal review; desk-based research for any citizen report cards/user feedback surveys with a gender lens if available; if the law provides a simple procedure for submitting a request, try submitting a request at the start of the research and see what is received.</p>
<p>2. If a registry cannot be accessed by the public, what (if any) authorities are able to access it? (For example, law enforcement, tax agencies, etc.)</p>	<p>Legal review; interviews with registry officials.</p>

Questions	Suggested methods
<p>3. Are there exceptions under which people can be denied access to land ownership or concession information? If so, who has control to decide whether an exception will be granted? Or are there circumstances in which owners can request certain information be included in the register, but not be made public? If so, please list them.</p>	<p>Legal review + interviews with transparency/governance civil society organisations and journalists.</p>
<p>4. Can the land registry be searched by: (Please select all that apply. If the country has different registries for different types of land, please answer separately for each registry at the national level).</p> <p>◆ If registries exist at the subnational level, please also assess the registry in a representative region/state by population or GDP/capita. (If there is no national registry, please use these instructions for the primary assessment, too).</p> <ul style="list-style-type: none"> • land owner/lease holder name • parcel/plot # • beneficial owner • type of concession • type of land use • legal entity registration # of owned by a business/trust/other legal entity 	<p>Legal review</p>
<p>◆ Are there any laws in the country that require publication of concession data and contracts? If yes, which types of concessions? What type of information does the law require be published?</p> <p>◆ Does the law require information on beneficial ownership be provided during the application for a long-term lease or concession? If so, is this information made available (and where/how?)</p>	<p>Legal review</p>

C. LEGAL ENTITY/ARRANGEMENT REGISTRY AND INFORMATION COLLECTION

All legal entities (national and international) might need to provide information to the government on their beneficial owners; beneficial ownership information might need to be provided before land acquisition; third parties might have responsibilities for providing beneficial ownership information; and sanctions and incentives might be used to encourage disclosure.

Questions	Suggested methods
<p>1. What types of legal entities/arrangements (for example, national or international companies, trusts, etc.) operate in the country?</p> <p>◆ For a more advanced methodology, please map out the primary types of legal entities/arrangements that are used to own and control land in the country.</p>	Interviews with land rights and transparency civil society organisations, investment law firms, and land registry officials; review of concession auction bidder list (if any).
<p>2. Does the country have a definition of beneficial ownership? If so, please describe the different disclosure requirements for beneficial ownership and control of each type of legal entity/arrangement in C1.</p>	Legal review
<p>3. Does the country have a company registry and/or trust registry?</p> <p>3.1) Does each type of legal entity have its own registry or is there one centralised registry for all?</p> <p>3.2) Are these registries at the national level or at subnational level?</p> <p>3.3) Do these registries contain information on domestic and international entities? They contain the same information on each?</p> <p>3.4) What types of information are collected in these registries, particularly as relates to beneficial ownership?</p> <p>◆ What format is this information in?</p>	Legal review
<p>4. What responsibilities, if any, do third parties have to register information on the beneficial ownership of these legal entities? How is it registered?</p>	Legal review + interviews with corporate law firm, accountant firm.
<p>5. Are real estate agents/notaries/land agents/brokers/lawyers who engage in land transactions required by law to identify the beneficial owner of their customers?</p>	Legal review + interviews with real estate lawyers or businesses.
<p>6. Are there any incentives and/or sanctions on third parties or on legal entities themselves for not reporting required beneficial ownership information?</p> <p>◆ Are these different across industries or foreign or domestic ownership?</p>	Legal review + interviews with corporate law firm, accountant firm.

Questions	Suggested methods
<p>7. To what extent are land registry and legal entity registries automatically synchronised? If someone is searching for information do they have to search through different registries to get the information about the same natural person / legal entity / plot of land?</p> <p>◆ For a more comprehensive assessment, the researcher should test this herself.</p>	Legal review + interviews with registry officials of both types of registries.
<p>8. Do foreign companies, trusts, or other legal entities/arrangements need to register with the relevant registry before purchasing, leasing or seeking to acquire a concession (through auction, etc.) in the country?</p>	Legal review; interviews with real estate brokers or ministries/government offices in charge of approving or allocating concessions.

D. ACCESS TO LEGAL ENTITY/ARRANGEMENT REGISTRY INFORMATION

For the purpose of enabling communities or governments to hold beneficial owners accountable, countries might have registries open to the general public without a fee; make them available online; and make them searchable by different criteria.

Questions	Suggested methods
<p>1. Can the public access ownership information?</p> <ul style="list-style-type: none"> • for free • within a legally specified period of time • online • any member of the public • for a published fee (how much?) • at any time • only in person or by written request 	Legal review; desk-based research for any citizen report cards/user feedback surveys; interviews with journalists and transparency civil society organisations.
<p>2. Are there exceptions under which people can be denied access to ownership information? Who has authority to decide whether an exception will be granted? If so, please list. Or are there circumstances in which owners can request certain information be included in the register, but not be made public? If so, please list them.</p>	Legal review; desk-based research for any citizen report cards/user feedback surveys; interviews with journalists and transparency civil society organisations.
<p>■ Is the information about the ultimate ownership of the company available, and if so, is it easily integrated with the country's company register? Is the data itself open and in CSV format?</p>	
<p>3. Please describe who is able to access the beneficial ownership information and the process to access it.</p>	Legal review + interviews with corporate law firms + registry officials.

E. RESPONSIBILITIES OF STEWARDSHIP/USE BY ENTITIES WITH OWNERSHIP OR CONTROL

Researchers should consider both required and voluntary actions that landowners are required/encouraged to undertake. Ideally a country would have clear, legally enforced requirements for social and environmental stewardship by landowners. The second-best alternative would be to have national or international guidelines that are promoted by proactive incentives.

Questions	Suggested methods
1. In the national-level laws and regulations, what responsibilities are imposed on entities that own and control land to consider environmental and social impacts of their activities? (For example, avoiding environmental pollution, allowing access or harvesting rights to other individuals, etc.)	Legal review, with particular attention to Environment and Social Impact Assessment laws, investment law, environmental law
1.1 What mechanisms exist to enforce these laws? 1.2 Does the country have any related voluntary standards or policies in place? ◆ Do subnational units have different incentives to promote adherence to voluntary standards?	Interviews with legal entities that have chosen to voluntarily disclose ownership information or contract information about the decision to do so (check open-landcontracts.org and Extractive Industries Transparency Initiative reports)
2. If the country has voluntary policies/standards outlining landowner/ controller best practice relating to the environmental and social benefit of the land under their control, are any incentives provided to encourage people to meet these standards? (If yes, what are they?)	National Extractive Industries Transparency Initiative framework; investment law
◆ If legal entities/arrangements owning land or concessions in a specific country primarily stem from one or two source countries, do those source countries have any laws or policies that require certain environmental or social standards be applied in the legal entity's operations?	Review published contracts and registry to find source country; conduct legal analysis of source country laws on overseas operations (e.g. Alien Tort Claims Act in USA)

F. SUGGESTED CASE STUDIES

When research is conducted for advocacy purposes, case studies can help to demonstrate the impact of lax beneficial ownership requirements or land registry transparency in a country.

Questions	Suggested methods
<p>a. Testing access to information: <i>Attempt to secure a land contract for a specific parcel of land or specific owner. Did the process work according to the law? What information was contained in the disclosure? Were you able to verify any ownership information with a corporate registry?</i></p> <p>b. The G20 principles on beneficial ownership use a threshold of a 25 per cent share in a legal entity to define a beneficial owner. Is this an effective threshold? <i>Find a case study where beneficial ownership has been significant but below the 25 per cent threshold. What have been the implications of this in terms of accountability?</i></p>	

ANNEXES

2. Additional information

SIERRA LEONE COUNTRY REPORT PEER REVIEWERS

- Dr. Caitlin Ryan, University of Groningen (Department of International Relations and International Organisation)
- Michael Solis, Programme Manager, Trócaire Sierra Leone
- Muireann Kirrane, Resource Rights Adviser, Trócaire, Maynooth
- Edward B. Koroma, Jr., Senior Programmes Officer, Transparency International Sierra Leone

INSTITUTIONS THAT DEAL WITH LAND-RELATED MATTERS IN SIERRA LEONE

- OARG is charged with registration and administration of all land instruments in the Western Area.
- The MLCPE is charged with planning and policy-making related to land use and the environment.
- MAFFS is charged with the growth and development of the agriculture sector in the country
- The Ministry of Mines and Mineral Resources is charged with administering the provisions of the Mines and Minerals Act, 2009.
- The Ministry of Works, Housing and Infrastructure has the mandate to design, coordinate and monitor the implementation of policies and programmes for the development of the housing and road sectors of the economy.
- The Sierra Leone Investment Export Promotion Agency is charged with introducing opportunities and the means of doing large-scale agribusiness investment.
- The Environmental Protection Agency enforces compliance with environmental protection laws and drafting regulations for the mining sectors.
- The Law Reform Commission reviews laws and reforms, and develops, consolidates and codifies laws, including land laws.
- The Chiefdom Administration deals with the affairs of chiefdoms including land-related disputes.
- Local Councils work with Chiefdom Councils to perform local governance functions, including land governance functions.¹⁰¹

¹⁰¹ World Bank, 2015: pp. 31–32.

FIGURE 2
Official Service Charter for the Registration of Deeds
and Miscellaneous Documents

PROPERTY LAND TAX FEES	RATE OF TAX
The Central Ward of Freetown	Le100,000.00
The Eastern and Western Ward of Freetown	Le40,000.00
The First, Second and Third Urban Area of Freetown per acre	Le20,000.00
The Areas within the jurisdiction of any Town Council in the Provinces	Le20,000.00
All other areas in Sierra Leone including farm lands	Le20,000.00
REGISTRATION OF INSTRUMENTS FEES	
1. For ever manual search in such distinct set of books or memorials (for every day of search)	Le20,000.00
2. For the registration and recording of every instrument	Le100,000.00
3. For depositing very instrument	Le60,000.00
4. For verifying every memorial and recording such memorial	Le40,000.00
5. For taking out a memorial	Le40,000.00
6. For an attested copy of, or extract from any recard, instrument memorial	Le20,000.00
7. For every other certificate or extract	
8. For 7 day fast tract registration of any instrument	Le50,000.00
STAMP DUTY FEES	
Conevances and other assignments of property, real and personal, including mariages debentires and liquidations of the value of the properties:	0.01%
Deed of reconveyance or discharge of a mortgage	Le50,000.00
Deed of any kind whatsoever not described in this schedule	Le50,000.00
Power or letters of Attorney	Le50,000.00

Note: *100,000.00 Le = approximately US\$13
Source: OARG's website, available at www.oarg.gov.sl/Land%20Registry.html

REQUIREMENTS FOR DEEDS

According to the OARG website, the transfer of an interest in land is by way of a deed of conveyance, which is a legal instrument that has to be prepared by a legal practitioner and registered in the Land Registry at the Office of the Administrator and Registrar General:

- A descriptive clause identifying by name, address and capacity the parties thereto.
- A recital clause that tells the whole story of ownership of the land or the right to an interest in the land to be conveyed, including the location, size or a reference to a detailed description of the land or interest to be conveyed.
- An operative clause that contains the consideration for which the interest in the land is being transferred, and describes the interest in the land that is being transferred and the extent thereto.
- An indemnity clause, which is optional, indemnifying the purchaser against any adverse claim that may arise in respect of the said interest conveyed.
- An attestation clause that bears the signature of the party conveying, or the parties as the case may be, a seal or seals, which must be witnessed.
- Where a tract of land is being transferred, whether by way of a conveyance for a freehold or a leasehold where the lease is for at least three years, a detailed description and demarcation of the boundaries of the land is usually contained in a schedule to the deed.

FIGURE 3

Statutory fees for the registration of Business and Companies

CHARGES ACCORDING TO THE BUSINESS REGISTRATION ONE STOP SHOP, OFFICE OF THE ADMINISTRATOR AND REGISTRAR GENERAL

Combined Application Form	No Charge
Name search for all Business Entities Business Name Search	No Charge
Business Name Certificate	Le20,000.00
Change of Business Name	Le20,000.00
Certified copy Business name certificate	Le10,000.00
Hard copy of certified Business Name Certificate	Le20,000.00
NRA Written Statements for Sole Proprietorship	Le40,000.00
NRA Written Statements for Partnership and Company	Le50,000.00

BUSINESS REGISTRATION FEES

Sole Proprietorship	Le50,000.00
Partnership	Le50,000.00

Note: *100,000.00 Le = approximately US\$13

Source: OARG's website, available at <http://www.oarg.gov.sl/Statutory%20Fee%20for%20Business%20Registration.html>

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